

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

1	UNITED STATES OF AMERICA,)	No. 14 CR 390
2)	
3	Plaintiff,)	Chicago, Illinois
4)	October 15, 2014
5	-vs-)	9:50 o'clock a.m.
6)	
7	KEVIN JOHNSON and TYLER LANG,)	
8	Defendants.)	

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE MILTON I. SHADUR

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1 THE CLERK: 14 CR 390, the United States versus
2 Kevin Johnson and Tyler Lang.

3 MR. DEUTSCH: Good morning, Judge, Michael Deutsch
4 for Kevin Johnson. And Lillian McCartin here as well for
5 Kevin Johnson.

6 MR. MEYER: Good morning, Judge, Geoffrey Meyer on
7 behalf of Mr. Lang.

8 MS. BIESENTHAL: Good morning, your Honor, Bethany
9 Biesenthal and Nancy DePodesta on behalf of the United
10 States.

11 MS. DePODESTA: Good morning.

12 THE COURT: Good morning. Well, first of all let
13 me deal with what Terry had listed here for me, which is the
14 whole set of Lang objections. And you will have to fill me
15 in because, as you heard, this has been criminal case day and
16 I -- although I have tried to catch up with a number of the
17 filings, I am not sure -- did the Government respond to each
18 of those motions?

19 MS. BIESENTHAL: We did, Judge. We filed a
20 consolidated response. So it would just be one brief from
21 us.

22 THE COURT: Yeah, that is what I thought. And I am
23 not going to deal with that one now. I am going to review
24 those.

25 The major issue that is here is the question of

1 whether Mr. Johnson is to be held in custody or not.

2 MR. DEUTSCH: That's correct, Judge.

3 THE COURT: And in candor I have a strong sense
4 that to urge otherwise is extraordinarily myopic. If you
5 wanted to have living proof that someone is not a reliable
6 person in terms of permitting his strong feelings, whatever
7 they are, to drive his conduct, this would be a poster child.
8 You know, you have got a fella who really has been out of
9 control in a number of respects. And the idea of saying,
10 well, all of the decisions about custody or not, about
11 custody or release, are basically efforts to predict human
12 conduct.

13 And about the only way that we can predict human
14 conduct, because we are -- we don't have an unclouded crystal
15 ball, is to judge by past conduct. And I am sorry to say
16 that Mr. Johnson's past conduct gives no indication at all
17 that promises, or whatever, or good intentions on the part of
18 family members, or whatever, are adequate assurance.

19 And I am speaking now not of risk of flight but
20 danger for the community. And I just -- you know, I read
21 everybody's submission, and I have got to tell you the -- it
22 just does not ring as credible to say that there are
23 conditions that would satisfy the concern about danger to
24 other members of the community. He has -- I don't have to
25 elaborate. I don't have to recount the stories. They are

1 all recounted to me in this one.

2 So, Mr. Deutsch, now that I have told you what I
3 really think.

4 MR. DEUTSCH: Yeah.

5 THE COURT: Okay.

6 MR. DEUTSCH: Judge, let me say a few preliminary
7 things.

8 THE COURT: Yeah.

9 MR. DEUTSCH: First of all, he has not been
10 interviewed yet by Pretrial Services to determine what his
11 state of mind is and what his support connections are at the
12 present time. He has just completed one year in the Illinois
13 State penitentiary --

14 THE COURT: Yes, I know that.

15 MR. DEUTSCH: -- which is going to have a
16 significant deterrence on him. He is not -- a lot of his
17 criminal activity -- and I agree with you there is quite a
18 bit -- began when he is 20 years old. He is now 27 years
19 old. I think his fervor, his political fervor, has lessened
20 extensively since then. He is going to -- if released would
21 live with his mother who is an attorney in California. I
22 understand --

23 THE COURT: Yes, I saw that.

24 MR. DEUTSCH: I understand she hasn't been able to
25 control his conduct in the past. But he has -- and if you

1 heard from him, he is suffering as a result of his year in
2 the penitentiary. He has some psychological problems. I
3 think he is ready to make a different step here away from
4 some of his past history of political activity. And I think,
5 yes, he has a history of criminal activity.

6 THE COURT: But not just --

7 MR. DEUTSCH: Is it seriously dangerous, Judge?

8 THE COURT: Not just criminal activity, the thing
9 that is disturbing is the evidences of spontaneous rage and
10 and threats as a result and threats that have to be taken
11 seriously. They certainly had to be taken seriously by the
12 targets of that. And I -- you know, I am -- I recognize that
13 fervor sometimes carries people over the top, but the thing
14 that is bothersome in an important sense is that I don't know
15 how to get any real kind of assurances that protestations,
16 "Well, I have seen the light of day" -- you know, I am not
17 asking to abandon his beliefs.

18 But the point is that the manner in which he has
19 acted on his beliefs in the past just simply does not -- it
20 is an understatement to say that it does not inspire --

21 MR. DEUTSCH: Judge, I can't argue with you on
22 that. But sometimes as people get older they get a little
23 bit more mature, particularly when as here --

24 THE COURT: The difference between 20 and 27 from
25 my perspective --

1 MR. DEUTSCH: Well.

2 THE COURT: -- is but a fleeting moment, you know.

3 MR. DEUTSCH: Yeah, I agree. And mine as well.

4 But from a young person at 20 who just completed a
5 year in the Illinois State penitentiary at 27, I think we can
6 create some kind of conditions that will make clear to him
7 that he cannot go around yelling at people, he cannot go
8 around protesting in front of people's homes. And if he
9 does, he is going to be violated and he is going to go in the
10 penitentiary. We can put him on a home monitoring. We can
11 say that he cannot be involved in violent or aggressive
12 protesting. And I am convinced, Judge, that he will comply
13 with these conditions that you set.

14 I know it is -- his threats are disturbing, but we
15 are not talking about somebody who has a history of actually
16 physically assaulting anyone. In all these activities they
17 are all screaming and yelling and threatening. And I am not
18 minimizing that because someone who is threatened is going to
19 be disturbed. But it is not somebody that we are fearful he
20 is going to go out and assault somebody or you have a gun or
21 you use a weapon against anyone. None of that is in his
22 background.

23 And in fact there is -- he has a history of
24 complying with bond conditions and complying with probation.
25 So if we set conditions that include home monitoring,

1 prohibiting him from going to any type of aggressive
2 demonstrations, being in the house other than seeing his
3 lawyer or a doctor, I think we have him pretty well. And he
4 is also on mandatory release from the Department of
5 Corrections for a year. So if he does anything, they can
6 violate him. You can revoke his bond.

7 And I think that this is not somebody that is going
8 to go out and do again what he has done. I think it has
9 played out, Judge. And I think he understands that. And I
10 think this year in the penitentiary has caused him some
11 severe psychological problems. And I don't think he wants to
12 be locked up even while he waits for trial.

13 So I am -- we are suggesting to the Court that if
14 we put him on stringent conditions and we tell him that --
15 face-to-face that he cannot be involved in any type of
16 aggressive demonstration, no kinds of threats, no going to
17 people's houses, and that he has to be home other than, you
18 know, home monitoring, I think he will be able to get some
19 kind of medical help, psychological help, while he awaits
20 trials. So that is what I think.

21 MS. BIESENTHAL: Judge, if I could respond just to
22 a few things. And before I do --

23 THE COURT: Sure.

24 MS. BIESENTHAL: -- just for the record, obviously
25 Mr. Johnson isn't present. Your Honor did issue a writ and

1 that -- so I am not sure why he is not here. He should have
2 been present.

3 MR. DEUTSCH: He is not here.

4 THE COURT: I know I issued one.

5 MR. DEUTSCH: Yeah.

6 MR. MEYER: Yeah.

7 MR. DEUTSCH: Judge, it seems to me that to have a
8 real meaningful determination here -- I know you are --

9 THE COURT: I am not going to do anything in his
10 absence.

11 MR. DEUTSCH: Yeah, I think he should be here. You
12 should tell him what you think.

13 THE COURT: He is basically under detainer, which
14 is the whole purpose of the order that I entered. But I am
15 really --

16 THE CLERK: Here comes someone.

17 MR. DEUTSCH: He is being --

18 THE COURT: Well, something is going on, but ---

19 (Discussion held off the record.)

20 THE COURT: The record should reflect Mr. Johnson
21 has now been delivered to us at five minutes of 10:00.

22 And, Mr. Johnson, with my not knowing whether you
23 had been returned here or not, although there was an order
24 entered, we had been talking about the question about whether
25 you should or should not be kept in custody, in federal

1 custody this time, not state custody, during the pendency of
2 this case. And Mr. Deutsch on your behalf has been arguing
3 extensively for the notion that there are appropriate
4 conditions that can be set that would assure that there would
5 be no repetition of the kind of conduct that unfortunately,
6 as I said before you arrived, you know, it is not within the
7 province of humans to be total predictors of the future and
8 the only way that we can make judgments in something like
9 this is to look at past conduct and operate on the basis that
10 the past conduct makes it likely that somebody is going to --
11 or may continue the same way. And we can't afford to take
12 risks.

13 There are two categories of reasons for detaining
14 somebody rather than permitting the person to be released
15 while the case is going forward. One of those is a risk of
16 flight. And that is not suggested here, that is, nobody is
17 suggesting that you are likely to take off because you are
18 facing, as you are, criminal charges here. I would hope that
19 is not the case, but nobody has really -- has really urged
20 that. The Government has not.

21 The big problem is the second part of the
22 determination, and that is whether you pose a danger to other
23 persons or the community. And you see what happens is we
24 look at what you have done in the past and try to figure out
25 do we have total assurances or strong assurances that is not

1 going to take place in the future. And Mr. Deutsch has been
2 arguing that there are circumstances that would in turn lead
3 to that.

4 Now, one of the points you made, Mr. Deutsch, is
5 that we haven't received a report from Pretrial Services.
6 Now, that is quite true. On the other hand, this is an
7 unusual situation because we have had a lot of input about
8 that in the form of filings up to now. And I am not sure
9 that Pretrial Services people, who have no better crystal
10 ball than I do, are going to be in a position to do other
11 than what they typically do in a report, which is to lay out
12 whatever facts they have and then say, "These things pose a
13 risk." And so what else is new? We are not going to be much
14 better informed by a Pretrial Services report.

15 MR. DEUTSCH: You are right, Judge, as to that, but
16 sometimes when a Pretrial Service person enter -- sits down
17 and interviews the person, they get a certain sense of what
18 they intend to do, where they are going to live, how they are
19 going to make a living, and what their demeanor is in terms
20 of how they intend to conduct themselves if on bond.

21 But since he is here I think I would be willing to
22 have him talk to you, put him on the witness stand under
23 oath, about whether or not he feels that he can comply with
24 conditions of bond which puts him under very restrictive
25 limits in terms of even go as far as house arrest and where

1 he is going to live, and what his attitude presently is about
2 his history of criminal activity and how he views himself now
3 than he did based on his background. So I am willing to do
4 that if the Court is willing to hear it.

5 THE COURT: Well, just before he came in the
6 Government was about to indicate its views. And there is no
7 reason that everybody has to be standing up while this is
8 going on. So everybody can be seated and we will hear from
9 the prosecutors.

10 MS. BIESENTHAL: Thank you, Judge. I just wanted
11 to respond very briefly to a few of the things that counsel
12 argued. We obviously have submitted a significant amount of
13 information to the Court. And I don't want to rehash all of
14 our arguments, so I will just limit it to responding directly
15 to some of the things that counsel had said.

16 The first is I mean counsel said to your Honor
17 several different times, a number of different times, that
18 Mr. Johnson now has spent a year in the penitentiary. But by
19 my count this is -- this is certainly not his first time that
20 he has done a year, and by my count it is the third time he
21 has done a year in jail. And as your Honor said, I think his
22 past is the best predictor of his future behavior. And the
23 prior two times that he spent at least close to a year in
24 jail have certainly not deterred Mr. Johnson. And after each
25 of those stints in jail he has gone out and committed

1 criminal conduct again after serving those years in jail.

2 So I think that Mr. Deutsch's reliance on him now
3 serving a year in jail is, frankly, not relevant, your Honor,
4 given that he has done that before. He has gone out and he
5 has committed criminal conduct again after doing that before.

6 The second thing I wanted to comment on is
7 Mr. Deutsch spent a significant amount of time talking about
8 the fact that Mr. Johnson is now older and wiser and there is
9 a big difference between a 20-year-old and a 27-year-old.
10 And I think if you -- if you look at the evidence that the
11 Government set forth about Mr. Johnson's conduct, I think
12 while it is certainly true that 2006 to 2008 when Mr. Johnson
13 was 20 years old was when he was very heavily into protesting
14 and these aggressive protests and the threats that he was
15 making when he was out at the protests -- and while that
16 seems to have tapered off some over the course of time, what
17 hasn't tapered off and what has actually escalated is the
18 other behavior.

19 So while Mr. Johnson may not be at every single
20 protest, frankly in large part because he has been
21 incarcerated here and there, but while he is not at every
22 protest, now what we are seeing as Mr. Johnson gets older is
23 this escalating dangerousness which is now he has gone from a
24 protest to having a computer that is filled with pictures of
25 explosive devices, manuals on how to make explosive devices,

1 personal information about all these people who work for
2 retail chains or furriers or different companies.

3 I mean and we are not talking -- your Honor saw it.
4 We are not just talking about these people's names. We are
5 talking about information about their kids, what they do. It
6 is incredibly disturbing. And that is -- that is even worse
7 and more dangerous to me than the protests that he was doing
8 when he was 20. That is when he is older.

9 Then we escalate even further. Only August 2013
10 was when he was picked up for the last time after this
11 written mink threat. At that time, you know, that -- he is
12 almost the same age that he is now. It is just a little over
13 a year ago. That is only over a year ago. He has now
14 escalated his behavior even further and he has gone where he
15 is going across country and releasing mink from mink farms.
16 At the same time then he is picked up and he has got muriatic
17 acid in his car. He has got Clorox bleach in his car. He
18 has got these books in his car on making incendiary devices.

19 I mean this problem is escalating. It is not
20 getting better. It is not tapering off. It is getting
21 worse.

22 The final thing that I wanted to point out is that
23 I think Mr. Deutsch called this just screaming and yelling
24 and that there is no indication there has ever been any
25 physical violence. Well, first of all, that is not exactly

1 true because we set forth to your Honor -- we gave you a
2 videotape in which Mr. Johnson is seen kicking the doors, the
3 front doors of the headquarters of this company in
4 California. We submitted to your Honor evidence that he spit
5 on an employee's wife in Portland, Oregon.

6 And in addition to that I think, as your Honor
7 pointed out, the level of fear that is invoked in these
8 people who are the targets of his rage, who are the targets
9 of the screaming and the yelling, I can assure your Honor
10 that they wouldn't come before you and say that this was just
11 screaming and yelling. I can assure you that those people
12 took this seriously. They took Mr. Johnson at his word when
13 he is standing outside of their home screening that he is
14 going to burn it down, that he will be back, that the police
15 can't get there in time. I assure you they took those
16 threats seriously as they are sitting inside their homes with
17 their children.

18 So I don't think -- the Government does not view
19 this as screaming and yelling and nothing more. The
20 Government takes it very seriously. The Government is very
21 concerned about Mr. Johnson's past behavior, which is why we
22 have asked your Honor to detain him.

23 THE COURT: Mr. Deutsch.

24 MR. DEUTSCH: Yeah. Judge, as you may know, I have
25 some experience with people who are accused of being

1 dangerous and detained. And I really distinguish -- and I am
2 not -- not in any way to minimize his conduct. It is
3 criminal, his past conduct. But people who are really
4 dangerous, who have used violence, guns, bombs, terrorist
5 activity, I think that is the purpose of the detention
6 dangerousness statute.

7 THE COURT: What about people whose -- who are
8 demonstrated to have things that are preparatory to violence
9 and not just to screaming? You know, the things that were
10 located that he has are certainly not casual reading for the
11 -- for the weekend muser who thinks about, well, I am going
12 to go out and I am going to protest on something. That is --
13 that is scarcely an apt description of the materials and some
14 of them that I saw described here.

15 So, you know, again the best that we can do about
16 an effort to predict human conduct is to see the environment
17 in which this human conduct has manifested itself and also
18 can reasonably be said to anticipate what is going to happen.
19 The idea of his -- you know, he is not exactly reading a Tom
20 Clancy novel. And the materials that he has -- you know, you
21 can say, "Well, you know, it is not like Walter Mitty's
22 imaginary world. You have got somebody who has got serious
23 stuff.

24 And what is the point of having it unless it
25 mirrors somebody's intentions? I just -- I don't get that.

1 It doesn't register with me, frankly.

2 MR. DEUTSCH: Judge, I understand that. Sometimes
3 some people who are fervent about their political beliefs
4 begin to read stuff that is beyond what they intend to do,
5 and it is not necessarily an indication that what is in that
6 written documents that they have in their possession they
7 intend to do.

8 THE COURT: But the question is, should we take the
9 risk?

10 MR. DEUTSCH: Well --

11 THE COURT: That -- again, you know, you are not
12 functioning in terms of what I have to decide, which is, do
13 we have a serious risk here? And I don't think that there is
14 anything other than an affirmative answer to that because you
15 know, you can say all you want, well, it is casual reading
16 which was borne of his prior beliefs and there is no --
17 nothing to indicate that he is going to act on it -- I just
18 don't have that assurance.

19 MR. DEUTSCH: Judge, would you be willing to hear
20 from Mr. Johnson in terms of his intent and his willingness
21 to comply with any conditions that the Court may set or would
22 you feel like it wouldn't make a difference?

23 THE COURT: You know, I am sort of in the posture
24 in that respect I don't want him to be giving up any of his
25 rights in connection with the criminal charges that are here

1 against him and I don't want him to be exposing himself in a
2 situation in which he has constitutional rights not to
3 incriminate himself.

4 MR. DEUTSCH: I understand that.

5 THE COURT: And so I am -- you know, and I am not
6 sure, frankly -- this is a public proceeding. I am not sure,
7 frankly, that a -- that a motion that says, well, we are
8 going to suppress it the same way that we do, for example,
9 when there is a motion to quash assertedly illegal search or
10 seizure, in which case we can insulate the thing -- I am just
11 not sure whether that is our current situation.

12 And it is not that I don't want to hear from him.
13 It is just that I am not sure that that is going to be
14 especially enlightening because it has to depend in major
15 part on whether I find assurances to be credible. And I am
16 not -- and I don't want to be misunderstood. You know, I am
17 always persuadable, but I have got to tell you he has got
18 such a steep hill to climb, frankly. And that is the reason
19 I started out the way that I did.

20 I am troubled by the notion of keeping people in
21 custody when it is not necessary. I have -- unlike a lot of
22 my colleagues, for example, when I am taking a guilty plea
23 and it is under the statute that says that the minute the
24 person has found -- been found guilty or has pleaded guilty,
25 they are required to be incarcerated, and I don't see that

1 called for, I never accept the plea at that point. I make a
2 finding that all of the elements have been established, but I
3 defer the acceptance of the plea to the date of sentencing.
4 I am very sensitive to that problem. And this is no
5 exception to that.

6 But I find it awfully difficult, in light of
7 everything that has been presented to me, to think that I can
8 in good conscience create a risk for unknown people because
9 of a risk that has to be viewed as real because of what he
10 himself has created as his environment, as his conduct. So
11 it is not just a matter of not wanting to hear from him. It
12 is -- I really find that on all the things that have been
13 presented to me there he does -- he does represent a risk to
14 the safety of other persons, community, and that the one
15 thing I don't want to do is to -- is to be proved wrong.

16 You know, people have asked me who is the most
17 significant person in criminal justice in what used to be our
18 century, the last century. My answer is always Willie Horton
19 because Willie Horton, of course, apart from costing Dukakis
20 any potential for the presidency, really set back criminal
21 justice in the very area that we are talking about to a
22 terrible degree because no politician now who hopes to be
23 elected to a second term wants to be thought of as soft on
24 crime. It is a crime that that has happened.

25 MR. DEUTSCH: Right.

1 THE COURT: But, you know, I have to call them the
2 way I see them, and I have got -- I started out by indicating
3 how compelling I found all the things that have been -- that
4 have been put forth that are adverse to him in those terms.

5 MS. VELARDE: Your Honor --

6 THE COURT: Yes?

7 MS. VELARDE: Vanessa Velarde from Pretrial
8 Services. I just wanted to advise the Court that a Pretrial
9 Services report was submitted to the Court yesterday, October
10 14th. And I can tender a copy to your courtroom deputy.

11 THE COURT: When?

12 MS. VELARDE: Yesterday October 14th in the late
13 afternoon. It was submitted to the Court. It was e-filed
14 and then sent to you via e-mail.

15 THE COURT: Well, wait just a minute. A hard copy
16 was delivered to chambers?

17 MS. VELARDE: It was not. It was sent
18 electronically, your Honor.

19 MR. DEUTSCH: But that was prior to your
20 opportunity to interview him, right?

21 MS. VELARDE: It was.

22 MR. DEUTSCH: Okay.

23 MS. VELARDE: And I can tender that to the Court
24 right now. I apologize, your Honor.

25 THE COURT: Well, now you have started me on

1 another subject. You know, our Court has adopted a dealer's
2 choice policy in terms of whether we require hard copies or
3 not. I happen to be on the paper side --

4 MS. VELARDE: Okay.

5 THE COURT: -- of that issue. And it is very
6 troubling to hear, as I constantly do, well, we put it in the
7 electronic -- in what used to be called the ether and not to
8 have it delivered to me. I read everything that comes in and
9 I read it as it comes in. And when I don't get to read it,
10 that doesn't advance the ball much. So I wish that the word
11 would get out, as I think it does for anybody who reads my
12 website, that I expect paper copies. We have LR 5.2(f) that
13 says essentially dealer's choice that judges who want hard
14 copies get them and judges who want to ruin their eyes by
15 reading on the computer can do that. And I am on the former
16 side. And I must confess that I am too old to change in that
17 respect.

18 So it -- it is nice to know that something got
19 filed, but it doesn't educate me much when I haven't seen it.
20 Anyway, but thank you for the information. And I will see if
21 it can be drawn down.

22 MS. VELARDE: I apologize.

23 THE COURT: That is all right.

24 MR. DEUTSCH: Judge, let me make this suggestion:
25 Of course the right to bail is a fundamental constitutional

1 right.

2 THE COURT: Of course. Of course.

3 MR. DEUTSCH: And, you know, the
4 self-incrimination, the right to bail, those are things that
5 could be in conflict. Let me make this suggestion: Based on
6 what you have already said, I am not going to put the --
7 Mr. Johnson on the witness stand now. I haven't even had a
8 chance to meet with him.

9 THE COURT: Yeah.

10 MR. DEUTSCH: In the future, maybe in a month, I
11 will -- maybe after meeting with him and talking to him and
12 investigating his medical situation, I may come back with a
13 motion and then --

14 THE COURT: And I will entertain it.

15 MR. DEUTSCH: Yeah, fine. So why don't you just go
16 ahead and rule now and then --

17 THE COURT: So the order is that Mr. Johnson will
18 be detained in -- he -- let me make sure of exactly what his
19 situation is on the State side. I gather that he has been
20 discharged, or not?

21 MR. DEUTSCH: October 22nd is his discharge date.

22 THE COURT: All right. So he is under a federal
23 detainer at this point --

24 MR. DEUTSCH: Right.

25 THE COURT: -- rather than in federal custody

1 formally?

2 MR. DEUTSCH: Correct.

3 THE COURT: So my ruling is that as soon as he is
4 discharged from his state responsibilities, he will be
5 detained for the reasons that I have sought to indicate
6 orally and that he will remain in federal custody. And, by
7 the way, I should comment about that, and that is that, as
8 you know, the MCC is very much overcrowded. And the judges
9 don't control what their allocation is because, for example,
10 for me to urge that some defendant who is before me should be
11 held at MCC, which is most convenient for everybody, means
12 that some other judge who may have an equally good call on
13 the resources is somehow precluded from for a defendant of
14 that judge. And for that reason we basically leave it to the
15 people in the authority there rather than our trying to set
16 up a system.

17 We have tried, by the way, and it is
18 extraordinarily difficult to work out any kind of feasible
19 arrangement for priorities and so on. I don't know then what
20 is going to happen in terms of where he is going to be
21 housed. I would hope that certainly at least in the early
22 period that you will have access to him over at the MCC. But
23 I don't know whether there would be a designation to one of
24 the other institutions, which means that access to him will
25 be a little more difficult and you will have to follow-up on

1 that.

2 Okay. So that -- that is my order. The order is
3 that immediately upon his being -- his being released by the
4 state authorities, the current writ which is simply for
5 purposes of a detainer will become a formal order placing him
6 in federal custody to be detained during the pendency of this
7 litigation. And as -- if, as and when you feel that you have
8 something that you think calls for a different look, I will
9 take a look.

10 MR. DEUTSCH: Very well.

11 THE COURT: Okay?

12 MR. DEUTSCH: Thank you, Judge.

13 THE COURT: Thank you all.

14 MS. VELARDE: Thank you, your Honor.

15 MS. BIESENTHAL: Judge, I think we need to set
16 another status date.

17 THE COURT: Well, what I am going to do is to first
18 of all -- I started out by saying that I am going to have to
19 deal with the motions by the co-defendant, which Mr. Johnson
20 has adopted, so it is on behalf of both.

21 MR. DEUTSCH: Correct.

22 THE COURT: And I will address myself to that. And
23 when I do that, I will have my people call you for purposes
24 of ruling on those and the establishment of a date. At this
25 point I want to make it open ended as -- if you were here in

1 court this morning, you know that Terry here inflicted on me
2 not quite my entire criminal call, not even approaching it.
3 But I -- so much for planning and leveling procedures. Part
4 of this I suspect was caused by the fact that tomorrow we are
5 going to be holding a monthly judges' meeting out in Rockford
6 because of a memorial to Stan Roszkowski, which I wouldn't
7 miss under any circumstances, and so I think things got moved
8 over so that too much has been occupying this day over here.

9 So I -- we will get back to you promptly in terms
10 of the motions, and then we will set a next status date.
11 Meanwhile it is -- it is open-ended because 3161(h)(1)(D)
12 deals with the pendency of motions, and so that is an ongoing
13 exclusion. Okay?

14 MR. DEUTSCH: Okay. Thank you, Judge.

15 THE COURT: Thank you all.

16 MS. BIESENTHAL: Thank you, Judge.

17 MS. DePODESTA: Thank you.

18 (Which were all the proceedings heard.)

19 CERTIFICATE

20 I certify that the foregoing is a correct transcript
21 from the record of proceedings in the above-entitled matter.

22
23 s/Rosemary Scarpelli/

Date: December 10, 2014

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